

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GILBERT LOPEZ ESCALANTE,

Petitioner,

v.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. H-07-0908

ORDER ON DISMISSAL

State inmate Gilbert Lopez Escalante, proceeding *pro se*, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his 1996 state court felony conviction for aggravated assault. The petition showed on its face that it was subject to dismissal as barred by the AEDPA one-year limitation. The Court ordered petitioner to show cause, by written response filed on or before April 13, 2007, why the petition should not be dismissed as barred by limitations. To-date, petitioner has neither filed, nor requested additional time to file, the show cause response.

Petitioner's failure to pursue this action and comply with the Court's order forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a court to manage its own affairs, this Court determines that dismissal for want of prosecution and failure to comply with the Court's order is appropriate. *See* FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998) (noting that a district court

may *sua sponte* dismiss an action for failure to prosecute or to comply with any court order).

Accordingly, it is ORDERED that this action be DISMISSED WITHOUT PREJUDICE for want of prosecution. All pending motions are DENIED AS MOOT.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas on April 30, 2007.

A handwritten signature in black ink, appearing to read 'Gray H. Miller', is written over a horizontal line.

Gray H. Miller
United States District Judge